

Appl. No.: 10/080,038

Filed: 02/19/2002

Page 8**REMARKS/ARGUMENTS**

This amendment is in response to the Office Action mailed April 18, 2005. Applicants would like to thank the Examiner for a timely and thorough review of the above-referenced patent application. Independent Claims 6, 13, and 17 have been amended to more clearly define the invention, as explained more fully below. It is respectfully submitted that in light of the arguments and claim amendments, the application is now in condition for allowance.

**Rejections Under 35 U.S.C. § 102(b) – Goos**

The Office Action rejected Claims 6-7, 9, 13-17, and 19 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 3,219,483 to Goos et al. ("the Goos '483 patent"). To the extent that this rejection would be applied against the claims as amended, Applicants respectfully traverse.

The Goos '483 patent discloses a mixer apparatus for mixing two flows of materials, such as heated steam or chemical solutions mixing into a starch. The mixer apparatus of the Goos '483 patent includes a tube 1 having a diaphragm 4, as in Figures 1-2; a diaphragm-like constriction 9, as in Figure 3; a slightly conical cross-section constriction 12, as in Figure 4; or a conical constriction 17, as in Figures 5-8. All of these form parts disclosed in the Goos '483 patent comprise control surfaces which extend a predetermined distance from the inner periphery of the tube towards the middle of the tube and which extend in a circumferential direction through the entire circumference of the inner periphery of the tube to thereby generate turbulence in the flow in the mixing zone of the tube.

Applicants have amended independent Claims 6, 13, and 17 to specifically claim control surfaces "which extend a predetermined circumferential distance that is less than the entire circumference of the inner periphery of the tube." These amendments are supported by at least the Figures 1 and 5 and the specification at page 5, lines 16-18 and lines 28-30 of the present application. Applicants respectfully submit that the amendment complies with the written description requirement and particularly points out and distinctly claims the subject matter which Applicants regard as the invention.

Appl. No.: 10/080,038

Filed: 02/19/2002

Page 9

The Goos '483 patent discloses form parts that at any longitudinal position define a control surface that extends in the circumferential direction the entire circumference of the inner periphery of the tube. The diaphragm 4 of Figures 1-2, a diaphragm-like constriction 9 of Figure 3, the slightly conical cross-section constriction 12 of Figure 4, and the conical constriction 17 of Figures 5-8 of the Goos '483 patent all define control surfaces that extend in the circumferential direction the entire circumference of the inner periphery of the tube. Amended Claims 6, 13, and 17, and the Claims that depend therefrom, specifically claim that the control surfaces "extend a predetermined circumferential distance that is less than the entire circumference of the inner periphery of the tube." Therefore, Applicants respectfully submit that the amended claims are not anticipated by the Goos '483 patent. Accordingly, Applicants respectfully request that the rejection of Claims 6-7, 9, 13-17, and 19 be withdrawn.

#### **Rejections Under 35 U.S.C. § 103(a) – Goos and King**

The Office Action rejected Claims 8 and 18 under 35 U.S.C. § 103(a) as being unpatentable over the Goos '483 patent in view of U.S. Patent No. 4,808,007 to King ("the King '007 patent"). To the extent that this rejection would be applied against the claims as amended and in light of the arguments above regarding the Goos '483 patent, Applicants respectfully submit that Claims 8 and 18 are not unpatentable over the Goos '483 patent in view of the King '007 patent. Accordingly, Applicants respectfully request that the rejection of Claims 8 and 18 be withdrawn.

#### **Allowable Subject Matter**

Applicants would like to thank the Examiner for indicating that Claims 10-12 and 20 would be allowable if rewritten in independent form to include all of the limitations of the base claim and any intervening claims. Applicants respectfully believe, however, that amended independent Claims 6 and 17, from which those claims depend, are allowable for the reasons set forth above. Accordingly, Applicants respectfully believe that Claims 10-12 and 20 are allowable in that they contain additional recitations beyond independent Claims 6 and 17, and request that the objection be withdrawn.

Appl. No.: 10/080,038

Filed: 02/19/2002

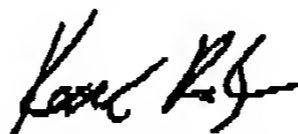
Page 10

**CONCLUSION**

In view of the foregoing remarks, Applicants respectfully submit that all of the claims of the present application are in condition for allowance. It is respectfully requested that a Notice of Allowance be issued in due course. Examiner Halpern is encouraged to contact Applicants' undersigned attorney to resolve any remaining issues in order to expedite examination of the present application.

It is not believed that fees for extensions of time or for net addition of claims are required. However, in the event that additional extensions of time or fees for net addition of claims are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 CFR § 1.136(a), and any fees required are hereby authorized to be charged to Deposit Account No. 16-0605.

Respectfully submitted,



Keith A. Roberson  
Registration No. 52,171

Customer No. 00826  
**ALSTON & BIRD LLP**  
Bank of America Plaza  
101 South Tryon Street, Suite 4000  
Charlotte, NC 28280-4000  
Tel Charlotte Office (704) 444-1000  
Fax Charlotte Office (704) 444-1111

**CERTIFICATION OF FACSIMILE TRANSMISSION**

I hereby certify that this paper is being facsimile transmitted to the US Patent and Trademark Office at Fax No. (703) 872-9306 on the date shown below.

  
Tamara Stevens7-13-2005  
Date

CLT01/4719598v1